

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Implementation of the Local Competition) CC Docket No. 96-98
Provisions in the Telecommunications Act)
of 1996)

To the Commission

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COMMENTS OF OMNIPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc., by its attorneys, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking ("Notice")¹ in the above-captioned proceeding. Omnipoint's comments address the Commission's tentative conclusions concerning the administration of numbering resources.²

I. BACKGROUND AND SUMMARY

Omnipoint is the Block A PCS licensee in the New York MTA and is in the process of building out its five-state service area. On December 19, 1995, Omnipoint submitted to the North American Numbering Plan Administration ("NANPA") an application for the assignment of a General Purpose NPA Code pursuant to the Industry Carriers Compatibility Forum NPA Allocation Plan and Assignment Guidelines (the "Guidelines"). On December 20, 1995, NANPA responded that the application should be submitted to the Industry Numbering

¹Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 96-182 (released April 19, 1996).

²Id. at ¶¶ 250-259.

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Committee ("INC") for resolution. On February 2, 1996, at INC22, the next INC General Session meeting, Omnipoint resubmitted the application, which became the subject of substantial discussion at the meeting, subsequent written submissions by Omnipoint and others in support of the application, and additional discussion at INC23 on March 7, 1996. After yet additional submissions by Omnipoint, at INC24 on April 16, 1996, Omnipoint requested a decision on its application because it could no longer delay its plans to deploy its system. Without discussion, every local exchange carrier ("LEC") representative voted against the application and it was denied. The reasons for the denial were never explicitly stated or documented. Not one LEC representative challenged Omnipoint's position that it met the assignment criteria set out in the Guidelines or presented evidence that Omnipoint did not meet the criteria.

Omnipoint raises its particular experience with the current numbering administration process not because it intends to seek specific relief in this proceeding. There are other avenues available for that and Omnipoint intends to pursue them. Nonetheless, Omnipoint's experience is relevant to the questions the Commission has asked in this rulemaking about telecommunications numbering. Omnipoint generally applauds the Commission's efforts to establish rules designed to promote a competitive telecommunications marketplace as Congress intended through its enactment of the Telecommunications Act of 1996 ("1996 Telecom Act").³ A necessary component of open, competitive markets is access to, and judicious administration of, numbering resources.

The Commission's actions have been consistent with Congress's goal to promote competition in the telecommunications marketplace. Not only has the Commission designated

³Pub. L. 104-104, 110 Stat. 56 (1996).

an impartial entity to administer the North American Numbering Plan (NANP),⁴ but it has also established guidelines to avoid administration of the NANP in a manner that would favor one technology or industry segment over another.⁵ This approach, combined with obligations imposed on LECs to provide competitive access to subscriber telephone numbers,⁶ results in a policy framework that is conducive to the "development of competitive markets."⁷

However, as Omnipoint's recent experience clearly and painfully demonstrates, the benefits of the procompetitive policies that Congress and the Commission have established cannot be realized unless the North American Numbering Council (the "Council") becomes a working body and acts in a timely manner. The Council will play a key role in selecting the NANP administrator and overseeing its functions. Until the Council itself is chosen and initiates the necessary steps to select and transition a new NANP administrator, the *status quo* will remain and Bellcore will continue to administer numbering resources to LEC competitors, an untenable situation in light of increasingly competitive markets.

II. THE COMMISSION SHOULD STRICTLY ENFORCE FEDERAL POLICY OBJECTIVES IN ORDER TO FACILITATE RATHER THAN IMPEDE COMPETITION

As both Congress and the FCC have already acknowledged, the public interest is best served by designation of an administrator of the NANP that is "unaligned with any particular

⁴Cf. 47 U.S.C. § 251(e)(1).

⁵Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596, 4604 (1996) ("Ameritech Order").

⁶47 U.S.C. § 271(c)(2)(B).

⁷1996 Telecom Act, Section 2, Title I, Part II.

segment of the telecommunications industry."⁸ Specifically, the Commission has determined that it would be "very difficult if not impossible, for a NANP Administrator closely associated with a particular segment of the telecommunications industry to be impartial."⁹ Yet, this is the current situation. Bellcore, an entity heavily affiliated with the LECs, remains in control of the numbering resources that wireless competitors desperately need. Unless the Commission strictly enforces the federal policy objectives for numbering administration, competition will be severely hindered.

According to the Commission's schedule for a speedy transition to the new NANP model, the approval of a charter for the Council was intended to trigger a sequence of events that are central to effecting the shift of Bellcore's NANP administrative functions to a new administrator. Although a charter for the Council has been approved, no further action has been taken. Despite the Commission's declaration that the transition to the new NANP administration model should "occur as rapidly as possible,"¹⁰ the implementation schedule set forth in the NANP Order,¹¹ has not been enforced. For example, the Council was supposed to hold its first meeting no later than 30 days after the charter's approval and select a new NANP administrator 180 days thereafter.¹² Not only has a meeting not been conducted and a new NANP administrator not been selected, but the Commission has yet to announce the members of the Council. Although the Commission

⁸Id. at ¶ 252; Section 251(e)(1) of the 1996 Telecom Act.

⁹Administration of the North American Numbering Plan, Report and Order, 11 FCC Rcd 2588, 2613 (1995) ("NANP Order").

¹⁰Id. at 2632.

¹¹Id.

¹²Id.

has established the procedures for the designation of an impartial administrator, it must also ensure that its procedures are enforced. Absent strict enforcement by the Commission, Congress's and the Commission's goals to foster competition will be unfulfilled.

Time is of the essence in administering numbering resources. The Commission has issued licenses to the PCS A and B Block auction winners, who have begun deploying their systems. The C Block auctions have concluded and licenses will soon be issued to those auction winners, who will also begin deploying their systems. In addition, the Commission is preparing to auction licenses in the D, E, and F Blocks. As competitors continue to enter the market, the need for numbers will only be heightened.

In order for PCS providers to compete effectively with established carriers in the telecommunications marketplace, "the timely availability of numbers is essential."¹³ Indeed, the Commission has determined that "new wireless service providers and competitive access providers cannot offer service without adequate access to new telephone numbers."¹⁴ Increasing competition from new wireline competitors underscores the need for a neutral administrator of numbering resources.

As new entrants strive to enter the telecommunications market, "access to numbering resources is critical" because they are "the means by which businesses and consumers gain access to, and reap the benefits of, the public switched telephone network."¹⁵ The Commission has observed that "[i]ncreasingly, companies needing numbering resources, such as PCS providers,

¹³Ameritech Order, 10 FCC Rcd at 4604.

¹⁴Id.

¹⁵Notice at ¶ 4.

are competitors for market share of the carriers that directly and indirectly controlled distribution of numbering resources."¹⁶ As long as the NANP continues to be administered by an entity so strongly aligned with the wireline telephone industry, however, the full benefits of competition cannot be realized.

Because "[a]dministration of the NANP will significantly affect the ease with which new telecommunications services and enhanced services are introduced in the future,"¹⁷ the Commission should proceed with deliberate speed to ensure that federal policy objectives for the NANP are implemented. It is imperative, therefore, that the Commission retain its authority to not only set policies but to enforce such policies concerning the administration of numbering resources. This is necessary "in order to ensure the creation of a nationwide, uniform system of numbering that is essential to the efficient delivery of interstate and international telecommunications services and to the development of the robustly competitive telecommunications services market."¹⁸

III. CONCLUSION

Omnipoint fully supports the Commission's efforts to promote competition in the telecommunications marketplace. However, in order to facilitate the entry of new wireless competitors, the Commission must ensure that federal policy objectives for the administration of numbering resources are promptly implemented and strictly enforced. Delay only inures to the benefit of the incumbent LECs. So long as Bellcore remains the administrator of numbering

¹⁶NANP Order, 11 FCC Rcd at 2595.

¹⁷Ameritech Order, 10 FCC Rcd at 4604.

¹⁸Notice at ¶ 254.

resources, the incumbent LECs will continue in control. Until the new North American Numbering Council is in place and a truly independent NANP administrator is chosen, the competitive marketplace will remain only a dream.

Respectfully submitted,

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